

Notice of Allowability

Application No.

09/503,758

Examiner

Teresa E. Strzelecka

Applicant(s)

THILLY, WILLIAM G.

Art Unit

1637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendments filed 2/22/05, 5/11/05, 5/20/05.
2. ☒ The allowed claim(s) is/are 23,25-28,59,60,62 and 66-68.
3. ☒ The drawings filed on 23 July 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 5/17/05.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

JEFFREY FREDMAN
PRIMARY EXAMINER

DETAILED ACTION

1. This office action is in response to amendments filed February 22, 2005, May 11, 2005 and May 20, 2005. Claims 23, 25-28, 59, 60 and 62 were previously pending. In an amendment filed February 22, 2005 Applicant amended claims 23, 25-28, 59, 60 and 62 and added new claims 66-68. In an amendment filed May 11, 2005 Applicant amended claims 23, 25-28, 59, 62, 66 and 67. In an amendment filed May 20, 2005 Applicant amended claims 23, 25-27, 59, 62 and 67. Claims 23, 25-28, 59, 60, 62 and 66-68 are pending.

2. Applicant's amendments overcame the following rejections: rejection of claims 25-28, 59 and 60 under 35 U.S.C. 112, first paragraph, enablement and rejection of claims 23 and 62 under 35 U.S.C. 102(b) as anticipated by Kervinen et al.

Allowable Subject Matter

3. The following is an examiner's statement of reasons for allowance: Applicant's invention is directed to methods of identifying genes which carry alleles conferring increased likelihood of mortal disease by determining frequencies of at least two point mutations in a gene or gene fragment in a population of young individuals and in a population of aged individuals, calculating the frequencies of such point mutations and comparing the sums of the frequencies between the two populations, where the decrease in the frequency of the mutations in aged population indicates that a gene carries an allele which confers an increased likelihood of mortal disease. The closest prior art reference, Kervinen et al., teach detection of a frequency of a single allele for populations of young and old individuals, but do not teach determining frequencies of at least two point mutations.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Teresa E. Strzelecka whose telephone number is (571) 272-0789. The examiner can normally be reached on M-F (8:30-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Benzion can be reached on (571) 272-0782. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TS
May 24, 2005


JEFFREY FREDMAN
PRIMARY EXAMINER
